

p1

Legal Assistance Resource Center

♦ of Connecticut, Inc. ♦

44 Capitol Avenue, Suite 301 ♦ Hartford, Connecticut 06106
(860) 278-5688 x203 ♦ cell (860) 836-6355 ♦ fax (860) 278-2957 ♦ RPodolsky@LARCC.org

H.B. 5088 -- Self-service storage liens

General Law Committee public hearing -- February 21, 2012

Testimony of Raphael L. Podolsky

Recommended Committee action: REJECT UNLESS AMENDED
--

Existing law gives a self-service storage facility a lien on the stored property and makes provision for what happens if a person who rents storage space fails to pay the bill or remove the property. To foreclose the lien, the storage facility must notify the property owner by certified or registered mail, return receipt requested, after which it may sell the property at an appropriately advertised auction. H.B. 5088 would allow notice to be given to the property owner by "electronic mail," allow the auction to be advertised electronically, and make an auction per se commercially reasonable if there are three bidders.

(1) Notice by electronic mail: **We oppose email notice as a substitute for registered or certified mail.** Email is a convenient but unreliable way to give notice, especially notice that is time-related. People close email accounts or change email addresses. They do not necessarily know to whom they may have given the old email address. Many do not check their email regularly. Some have email addresses but no computer and must go to a library to check email. In addition, different email systems have different spam and security controls; and it does not follow that the sender will always receive a bounce-back notice if the email does not go through. We do not oppose email as an optional additional form of notice, but it is not an adequate substitute for other forms of delivery. If anything, the statute should be changed to require that notice be by both registered/certified and regular first-class mail.

(2) Commercially reasonable advertising: **We support legislation that requires that advertising for the auction be carried out in a commercially reasonable manner,** if that phrase is understood to mean advertising that is designed to generate a maximum resale price. This involves appropriate advertising in a retail market and the making of the property available for bid in a way that allows bidders to see what they are buying. Property in self-storage units can be of substantial value and can be worth far more than the debt to the storage facility. From this perspective, we support the supplementation of newspaper advertising with appropriate, documented electronic advertising. We also believe that newspaper advertising should be in classified sections, rather than in legal sections. We do not, however, support eliminating newspaper advertising.

(3) Minimum number of bidders: **We oppose an irrebuttable presumption that three "unrelated" bidders proves commercially reasonable advertising.** It is almost impossible to define truly independent bidders. Nevertheless, we do not oppose a rebuttable presumption, if the phrase "unrelated to" is changed to "unrelated to and fully independent of" the facility owner and the minimum number of bidders is increased.